
ENGROSSED HOUSE BILL 2561

State of Washington 61st Legislature 2010 Regular Session

By Representatives Dunshee, Williams, White, Seaquist, Darneille, Eddy, Dickerson, Sells, Rolfes, Chase, Green, Appleton, Sullivan, Simpson, Nelson, Hudgins, Jacks, Hunt, Hasegawa, Ormsby, Moeller, and Roberts

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AN ACT Relating to creating jobs by funding construction of energy cost saving improvements to public facilities; adding a new chapter to Title 43 RCW; creating new sections; making an appropriation; and providing for submission of certain sections of this act to a vote of the people.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

- 7 PART I
 8 SHORT TITLE AND INTENT
- 9 <u>NEW SECTION.</u> **Sec. 101.** This act may be known and cited as the 10 jobs act.
- NEW SECTION. Sec. 102. The legislature intends to create jobs in every corner of Washington state by issuing bonds, which will catalyze energy savings and repair work at public schools, state colleges and universities, and other public buildings.
- It is the intent of the legislature that these investments will create jobs quickly and directly, at a time when the state's residents need jobs.

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The legislature intends that these job-creating projects save taxpayers money, with an estimated one hundred ninety-one million dollars saved each year in public schools and buildings through reduced energy and operational costs, and improve the health and safety of those buildings. The energy savings are equivalent to the use of an estimated one hundred thirty thousand houses. It is also the intent of the legislature that these job-creating projects lead to reduced pollutants, as the weatherization and energy efficiency projects will reduce pollution emissions by an estimated amount equivalent to removing one hundred ninety-five thousand cars from the roads each year.

12 PART II

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13 BOND AUTHORIZATION

NEW SECTION. Sec. 201. (1) For the purpose of creating jobs by constructing needed capital improvements to public facilities for energy operational cost savings, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eight hundred sixty-one million dollars, or so much thereof as may be required, for this purpose and all costs incidental thereto. The bonds issued under the authority of this section are known as jobs act bonds.

- (2) Bonds authorized in this section must be sold in the manner, at the time or times, in amounts, and at such prices as the state finance committee determines.
- (3) The authorization to issue bonds contained in this chapter does not expire until the full authorization has been issued.
- 27 (4) No bonds authorized in this section may be offered for sale 28 without prior legislative appropriation of the net proceeds of the sale 29 of the bonds.
- NEW SECTION. Sec. 202. (1) The nondebt-limit general fund bond retirement account must be used for the payment of the principal of and interest on the bonds authorized in section 201 of this act.
- 33 (2) The state finance committee must, on or before June 30th of 34 each year, certify to the state treasurer the amount needed in the

ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in section 201 of this act.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of section 201 of this act, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the nondebt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

NEW SECTION. Sec. 203. (1) Bonds issued under this section and sections 201 and 202 of this act must state that they are a general obligation of the state of Washington, must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and must contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

19 PART III 20 APPROPRIATIONS

NEW_SECTION. Sec. 301. (1) The department of commerce, in consultation with the department of general administration and the Washington State University energy program, shall administer the jobs

24 act.

(2) The department of general administration must develop guidelines that are consistent with national and international energy savings performance standards for the implementation of energy savings performance contracting projects by the energy savings performance contractors by December 31, 2010.

- (3) The definitions in this section apply throughout this chapter and section 302 of this act unless the context clearly requires otherwise.
- (a) "Cost-effectiveness" means that the present value to a state agency, school district, local government, or subdivision of the state of the energy reasonably expected to be saved or produced by a

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- facility, activity, measure, or piece of equipment over its useful life, including any compensation received from a utility or the Bonneville power administration, is greater than the net present value of the costs of implementing, maintaining, and operating such facility, activity, measure, or piece of equipment over its useful life, when discounted at the cost of public borrowing.
 - (b) "Energy equipment" means energy management systems and any equipment, materials, or supplies that are expected, upon installation, to reduce the energy use or energy cost of an existing building or facility, and the services associated with the equipment, materials, or supplies, including but not limited to design, engineering, financing, installation, project management, guarantees, operations, and maintenance. Reduction in energy use or energy cost may also include reductions in the use or cost of water, wastewater, or solid waste.
 - (c) "Energy savings performance contracting" means the process authorized by chapter 39.35C RCW by which a company contracts with a public agency to conduct energy audits and guarantee energy savings from energy efficiency.
 - (d) "Operational cost savings" means savings realized from parts, service fees, capital renewal costs, and other measurable annual expenses to maintain and repair systems. This definition does not mean labor savings related to existing facility staff.
 - (e) "Public facilities" means buildings, building components, and major equipment or systems owned by state agencies, public school districts, local governments, and subdivisions of the state.
- 26 (f) "Simple payback" means the total project cost including tax and 27 fees less utility incentives divided by the first year energy savings.

NEW SECTION. Sec. 302. FOR THE DEPARTMENT OF COMMERCE

Jobs Act

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The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is provided solely for grants to K-12 public school districts, public higher education institutions, and other state, locally, and subdivision of the state-owned public facilities for energy and operational cost savings improvements and related projects that result in energy and utility and operational cost

savings, as defined in section 301 of this act. Related projects are those projects that must be completed in order for the energy efficiency improvement to be effective.

- (2) The department of commerce, in consultation with the department of general administration, and the Washington State University energy program shall establish a competitive process to solicit and evaluate applications from K-12 public school districts, public higher education institutions, state agencies, local governments, and subdivisions of the state. Final grant awards shall be determined by the department of commerce.
- (3) Grants must be awarded in competitive rounds, as provided in this subsection:
- (a) Round 1: Grants to K-12 public school districts and public higher education institutions, with at least five percent of the total grant round for small K-12 school districts with fewer than 1,000 full-time equivalent students.
- (b) Round 2: Grants to K-12 public school districts, public higher education institutions, state agencies, local governments, and subdivisions of the state. Up to seventy-five percent of the total grant round must be awarded to K-12 school districts and higher education institutions. Within the seventy-five percent, at least five percent of the grants awarded must be for K-12 school districts with fewer than 1,000 full-time equivalent students.
- (c) Additional competitive rounds: Grants shall be distributed the same as established in (b) of this subsection.
- (4) Within each competitive round, projects must be weighted and prioritized based on the following criteria and in the following order:
- (a) Leverage ratio: In each round, the higher the leverage ratio of nonstate funding sources to state jobs act grant, the higher the project ranking.
- (b) Energy savings: In each round, the higher the energy savings, the higher the project ranking. Applicants must submit documentation that demonstrates energy and operational cost savings resulting from the installation of the energy equipment and improvements. The documentation must include but is not limited to the following:
 - (i) A description of the energy equipment and improvements; and
- (ii) A description of the energy and operational cost savings. The energy savings analysis shall be performed by a licensed engineer.

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(c) Expediency of expenditure: Project readiness to spend funds must be prioritized so that the legislative intent to expend funds quickly is met.

- (5) Projects that do not use energy savings performance contracting must: (a) Verify energy and operational cost savings, as defined in section 301 of this act, for ten years or until the energy and operational costs savings pay for the project, whichever is shorter, (b) follow the department of general administration's energy savings performance contracting project guidelines developed pursuant to section 301 of this act, and (c) employ a licensed engineer for the energy audit and construction. The department of commerce may require third-party verification of savings if a project is not implemented by an energy savings performance contractor selected by the department of general administration through the request of qualifications process. Third-party verification must be conducted either by an energy savings performance contractor selected by the department of general administration through a request for qualifications or by a project or educational service district resource conservation manager.
 - (6) To intensify competition, the department of commerce may only award funds to the top eighty-five percent of projects applying in a round until the department of commerce determines a final round is appropriate. Projects that do not receive a grant award in one round may reapply in subsequent rounds.
 - (7) Grant amounts awarded to each project must allow for the maximum number of projects funded with the greatest energy and cost benefit.
 - (8) The department of commerce must use bond proceeds to pay one-half of the preliminary audit, up to five cents per square foot, if the project does not meet the public owner's predetermined cost-effectiveness criteria. The public owner must pay the other one-half of the cost of the preliminary audit if the project does not meet the public owner's predetermined cost-effectiveness criteria. The energy savings performance contractor shall not charge for an investment grade audit if the project does not meet the public owner's predetermined cost-effectiveness criteria. The public owner must pay the full price of an investment grade audit if they do not proceed with a project that meets the owner's predetermined cost-effectiveness criteria.

(9) The department of commerce may charge projects administrative
fees. The department of commerce may pay the department of general
administration and the Washington State University energy program
administration fees in an amount determined through a memorandum of
understanding.
(10) The department of commerce and the department of general
administration must submit a joint report to the appropriate committees
of the legislature and the office of financial management on the timing
and use of the grant funds, program administrative function, and
administration fees by the end of each fiscal year, until the funds are
fully expended and all savings verification requirements are fulfilled.
Appropriation:
Washington Works AccountState \$858,500,000
Prior Biennia (Expenditures)
Future Biennia (Projected Costs)
TOTAL
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17 PART IV

18 TECHNICAL PROVISIONS

NEW SECTION. **Sec. 401.** (1) The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in section 201 of this act.

- (2) The issuance of bonds under this chapter is not deemed to be the only method to fund projects under this chapter.
- 24 (3) The office of the state treasurer must determine a mechanism to 25 allow individual Washington state residents to purchase jobs act bonds.
- NEW SECTION. Sec. 402. The bonds authorized by this chapter constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations.
- NEW SECTION. Sec. 403. The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds provided for in this act, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

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- NEW SECTION. Sec. 404. The Washington works account is created in the state treasury. All receipts from bonds authorized under section 201 of this act must be deposited in the account. Moneys in the account may be spent only after appropriation. The proceeds from the sale of the bonds authorized in section 201 of this act shall be deposited in the account. Moneys in the account shall be used exclusively for:
- (1) The purposes of sections 301 and 302 of this act, which includes energy operation cost savings improvements and related projects that result in energy and operational cost savings for public schools and other state and locally owned public facilities; and
- 12 (2) The payment of the expenses incurred in connection with the sale and issuance of the bonds.

14 PART V

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REFERENDUM PROVISIONS

- NEW SECTION. Sec. 501. (1) The secretary of state shall submit sections 101 through 203 of this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with Article II, section 1 and Article VIII, section 3 of the state Constitution and the laws adopted to facilitate their operation.
- 22 (2) If the people ratify this act as specified under subsection (1) 23 of this section, revenues generated shall be spent as detailed in this 24 act.
 - (3) Pursuant to RCW 29A.72.050(6), the statement of subject and concise description for the ballot title shall read: "The legislature has passed House Bill No . . . (this act), concerning job creation through school and other public capital projects. This bill would promote job creation by authorizing bonds to construct energy operational cost savings improvements and related projects to schools and other public facilities."
- NEW SECTION. Sec. 502. This act is contingent upon approval by the voters of sections 101 through 203 of this act. If sections 101 through 203 of this act are not approved by the voters by December 1, 2010, this act is null and void.

- 1 <u>NEW SECTION.</u> **Sec. 503.** Sections 201 through 203, 301, and 401
- 2 through 404 of this act constitute a new chapter in Title 43 RCW.

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